

AMENDED IN SENATE AUGUST 17, 2015

AMENDED IN ASSEMBLY APRIL 15, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 776

Introduced by Assembly Member Cooper

February 25, 2015

An act to ~~add Section 23399.65 to~~ amend Section 25500 of, and to add Sections 23355.3 and 23399.65 to, the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

AB 776, as amended, Cooper. Alcoholic beverage control: ~~beer manufacturer: brewery event: licenses and tied-house restrictions.~~

(1) *The Alcoholic Beverage Control Act regulates the application for, the issuance of, the suspension of, and the conditions imposed upon, various alcoholic beverage licenses pursuant to which the licensees may exercise specified privileges in the state.*

This bill would authorize licensees to sponsor or otherwise participate in an event conducted by, and for the benefit of, a nonprofit organization that has acquired a specified alcoholic beverages license, subject to specified conditions, including that sponsorship or participation opportunities for the event be made available to any retail or nonretail licensee.

~~The~~

(2) *The Alcoholic Beverage Control Act authorizes a licensed winegrower to apply to the Department of Alcoholic Beverage Control for a wine sales event permit that allows the sale of bottled wine produced by that winegrower at specified events approved by the*

department. The act prohibits a wine sales event permit from being used more than 2 times a month at a particular location, and requires the winegrower to pay a fee of \$50 for the permit. The act provides that moneys collected as fees pursuant to the act are to be deposited in the Alcohol Beverage Control Fund. These moneys are generally allocated to the Department of Alcoholic Beverage Control upon appropriation by the Legislature.

This bill would authorize a licensed beer manufacturer to apply to the department for a brewery event permit that allows the sale of beer produced by that beer manufacturer for consumption on property contiguous and adjacent to the licensed premises of the manufacturer, as provided. The bill would authorize a fee for a brewery event permit of \$110 and an event authorization fee of not more than \$25 for each approved event. The bill would allow up to 4 authorized events each calendar year.

(3) Existing law, known as tied-house restrictions, generally prohibits a manufacturer, winegrower, manufacturer's agent, rectifier, California winegrower's agent, distiller, bottler, importer, and wholesaler, and any officer, director, or agent of any of those persons, from having specified relationships with an on-sale alcoholic beverage licensee, with limited exceptions. Existing law specifies that the Alcoholic Beverage Control Act does not prohibit holders of retail on-sale or off-sale licenses from purchasing advertising in any publication by specified alcoholic beverage licensees.

This bill would specify that the act does not prohibit purchasing advertising in a publication published by a nonretail licensee, as defined, and would include Internet Web sites and social media feeds as types of publications for these purposes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 23355.3 is added to the Business and
- 2 Professions Code, to read:
- 3 23355.3. (a) A licensee may sponsor or otherwise participate
- 4 in an event conducted by, and for the benefit of, a nonprofit
- 5 organization that has obtained a temporary daily on-sale license
- 6 or a temporary daily off-sale license under this division, in which

1 *retail or nonretail licensees are involved as sponsors or*
2 *participants, subject to all of the following conditions:*

3 *(1) Sponsorship or participation shall be pursuant to a written*
4 *agreement.*

5 *(2) Except as otherwise provided, any payment for sponsorship*
6 *or participation shall be as moneys paid only to the nonprofit*
7 *organization holding the temporary license.*

8 *(3) A nonretail licensee may donate alcoholic beverages to a*
9 *nonprofit only as otherwise authorized by Section 25503.9.*

10 *(4) Except as otherwise provided by this division, a retail*
11 *licensee shall not give, sell, or furnish any alcoholic beverages to*
12 *the temporary licensee.*

13 *(5) This subdivision shall not prohibit the establishment by the*
14 *temporary daily licensee of different levels of sponsorship, where*
15 *each sponsorship level provides different promotional benefits to*
16 *a sponsor. All sponsorship agreements for the event shall be on*
17 *identical terms. A nonretail or retail licensee may choose to*
18 *participate in any level of sponsorship, including at the name or*
19 *principal sponsor level. A nonprofit organization may choose to*
20 *have one, or multiple, name or principal sponsors. Sponsorship*
21 *or participation opportunities shall be made available to any retail*
22 *and nonretail licensee wishing to sponsor or participate.*

23 *(6) (A) Except as otherwise specified in this subdivision, any*
24 *advertising or promotion of the event by the temporary daily*
25 *licensee shall identify all sponsors. Sponsorship levels may specify*
26 *how prominent the identification of each sponsor shall be, provided*
27 *that all sponsors within each level are treated equally in the*
28 *advertising or promotion.*

29 *(B) A nonretail licensee may communicate sponsorship, or*
30 *participation, and share, repost, or otherwise forward a social*
31 *media post by a retail licensee or nonretail licensee if the*
32 *communication, sharing, reposting, or forwarding of the social*
33 *media post does not contain the retail price of any alcoholic*
34 *beverage. A nonretail licensee shall not pay or reimburse a retail*
35 *licensee, directly or indirectly, for any social media advertising*
36 *services. A retail licensee shall not accept any payment or*
37 *reimbursement, directly or indirectly, for any social media*
38 *advertising services offered by a nonretail licensee. For the*
39 *purposes of this paragraph, "social media" means a service,*
40 *platform, or site where users communicate with one another and*

1 *share media, such as pictures, videos, music, and blogs, with other*
2 *users free of charge.*

3 *(7) A retail licensee shall conspicuously offer for sale alcoholic*
4 *beverages other than the products produced, distributed, bottled,*
5 *or otherwise offered for sale by any of the sponsors of the event.*
6 *The retail licensee shall serve other brands of alcoholic beverages*
7 *distributed by a competing wholesaler in addition to the brands*
8 *manufactured or marketed by the nonretail licensee sponsoring*
9 *or participating in the event.*

10 *(b) The section does not authorize a nonretail licensee to pay,*
11 *in whole or in part, any costs, including the cost of sponsorship,*
12 *of any retail licensee that is sponsoring or participating in a*
13 *nonprofit event.*

14 *(c) A licensee that sponsors or participates in a nonprofit event*
15 *under this section shall keep detailed records of its sponsorship*
16 *or participation and shall maintain those records for a period of*
17 *at least three years. These records shall be provided to the*
18 *department upon request.*

19 **SECTION 1.**

20 **SEC. 2.** Section 23399.65 is added to the Business and
21 Professions Code, to read:

22 23399.65. (a) A licensed beer manufacturer may apply to the
23 department for a brewery event permit. A brewery event permit
24 shall authorize the sale of beer produced by the licensee pursuant
25 to Section 23357 for consumption on property contiguous and
26 adjacent to the licensed premises owned or under the control of
27 the licensee. The property shall be secured and controlled by the
28 licensee.

29 (b) (1) The fee for a brewery event permit for a licensed beer
30 manufacturer shall be one hundred ten dollars (\$110) for a permit
31 issued during the 2016 calendar year, and for a permit issued during
32 the years thereafter, the annual fee shall be calculated pursuant to
33 subdivisions (b) and (c) of Section 23320. The permit may be
34 renewed annually at the same time as the licensee's license. A
35 brewery event permit shall be transferable as a part of the license.

36 (2) For each brewery event, consent for the sale of beer pursuant
37 to subdivision (a) at the brewery event shall be first obtained by
38 the licensee from the department in the form of an event
39 authorization issued by the department. An event authorization
40 shall be subject to approval by the appropriate local law

1 enforcement agency. The fee for each event authorization shall
2 not to exceed twenty-five dollars (\$25). The number of events
3 authorized by a brewery event permit shall not exceed four in any
4 calendar year.

5 (3) All ~~money~~ moneys collected as fees pursuant to this
6 subdivision shall be deposited in the Alcohol Beverage Control
7 Fund, as described in Section 25761, for allocation, upon
8 appropriation by the Legislature, as provided in subdivision (d) of
9 that section.

10 (c) At all approved events, the licensee may exercise only those
11 privileges authorized by the licensee's license and shall comply
12 with all provisions of the act pertaining to the conduct of on-sale
13 premises and violation of those provisions may be grounds for
14 suspension or revocation of the licensee's license or permit, or
15 both, as though the violation occurred on the licensed premises.

16 (d) The department may adopt any regulations it determines to
17 be necessary for the administration of this section.

18 *SEC. 3. Section 25500 of the Business and Professions Code*
19 *is amended to read:*

20 25500. (a) No manufacturer, winegrower, manufacturer's
21 agent, rectifier, California winegrower's agent, distiller, bottler,
22 importer, or wholesaler, or any officer, director, or agent of any
23 such person shall:

24 (1) Hold the ownership, directly or indirectly, of any interest in
25 any on-sale license.

26 (2) Furnish, give, or lend any money or other thing of value,
27 directly or indirectly, to, or guarantee the repayment of any loan
28 or the fulfillment of any financial obligation of, any person engaged
29 in operating, owning, or maintaining any on-sale premises where
30 alcoholic beverages are sold for consumption on the premises.

31 (3) Own any interest, directly or indirectly, in the business,
32 furniture, fixtures, refrigeration equipment, signs, except signs for
33 interior use mentioned in subdivision (g) of Section 25503, or lease
34 in or of any premises operated or maintained under any on-sale
35 license for the sale of alcoholic beverages for consumption on the
36 premises where sold; or own any interest, directly or indirectly, in
37 realty acquired after June 13, 1935, upon which on-sale premises
38 are maintained unless the holding of the interest is permitted in
39 accordance with rules of the department.

(b) This section does not apply to the holding by one person of a wholesaler's license and an on-sale license in counties not to exceed 15,000 population.

(c) This section does not apply to the financial or representative relationship between a manufacturer, winegrower, manufacturer's agent, rectifier, California winegrower's agent, distiller, bottler, importer, or wholesaler, or any officer, director, or agent of such person, and a person holding only one of the following types of licenses:

(1) On-sale general license for a bona fide club.

(2) Club license issued under Article 4 (commencing with Section 23425) of Chapter 3.

(3) Veterans' club license issued under Article 5 (commencing with Section 23450) of Chapter 3.

(4) On-sale license for boats, trains, sleeping cars, or airplanes where the alcoholic beverages produced or sold by the manufacturer, winegrower, manufacturer's agent, rectifier, California winegrower's agent, bottler, importer, or wholesaler or any officer, director, or agent of the person are not sold, furnished, or given, directly or indirectly to the on-sale licensee.

(d) This section does not apply to an employee of a licensee referred to in subdivision (a) who is a nonadministrative and nonsupervisory employee.

(e) Notwithstanding any other provision of this division or regulation of the department, this section does not apply to an employee of a licensee referred to in subdivision (a) who is the spouse of an on-sale licensee, so long as the on-sale licensee does not purchase, offer for sale, or promote, regardless of source, any of the brands of alcoholic beverages that are produced, bottled, processed, imported, rectified, distributed, represented, or sold by any licensee referred to in subdivision (a) that employs the spouse of the on-sale licensee.

(f) *(1)* Nothing in this division prohibits the holder of any retail on-sale or off-sale license from ~~purchasing, for fair consideration, purchasing~~ advertising in any publication published by ~~any manufacturer, winegrower, manufacturer's agent, rectifier, California winegrower's agent, distiller, bottler, importer, or wholesaler, or any person who directly or indirectly holds the ownership of any interest in the premises of the retail licensee. a~~ *nonretail licensee.*

1 (2) *For purposes of this subdivision:*

2 (A) *“Nonretail licensee” means any manufacturer, winegrower,*
3 *manufacturer’s agent, rectifier, California winegrower’s agent,*
4 *distiller, bottler, importer, or wholesaler, or any person who does*
5 *not directly or indirectly hold the ownership of any interest in a*
6 *retail license.*

7 (B) *“Publication published by a nonretail licensee” includes*
8 *Internet Web sites and social media feeds operated and maintained*
9 *by or for a nonretail licensee under an account or Internet Web*
10 *site address owned by the nonretail licensee.*